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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Togo

Report by the Secretary-General

CONTENTS

		Paragraphs	Page
Introduction		1 - 4	3
I.	INFORMATION FROM THE GOVERNMENT OF TOGO	5	4
II.	ACTION TAKEN BY SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS AND BY TREATY MECHANISMS IN RESPECT OF TOGO	6 - 19	7
	A. Action taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions	6 - 11	7
	B. Action taken by the Special Rapporteur on the question of torture	12 - 18	8
	C. Treaty mechanisms	19	9
III.	INFORMATION FROM THE TOGOLESE COMMISSION ON HUMAN RIGHTS	20 - 21	9

GE.94-11016 (E)

CONTENTS (continued)

		Paragraphs	Page
IV.	INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS . .	22 - 41	10
	A. General situation in Togo during 1993	23 - 24	11
	B. Human rights violations attributed to the Togolese armed forces (FAT) during 1993	25 - 38	11
	C. Freedom of expression and press freedom	39 - 40	14
	D. Reprisals against members of a human rights defence organization	41	14

Introduction

1. On 10 March 1993, at its forty-ninth session, the Commission on Human Rights adopted without a vote resolution 1993/75, entitled "Situation of human rights in Togo", in which the Commission, deeply deploring the repeated acts of violence that had occurred, most recently in January 1993, which had resulted in many civilians being killed or wounded, concerned about the situation of human rights in Togo, in particular about the use of force during peaceful gatherings, and noting that hundreds of thousands of Togolese had fled to neighbouring Ghana or Benin, deplored the serious obstacles standing in the way of the process of democratic transition and called upon the authorities in Togo to take all necessary measures to create conditions conducive to the return of Togolese refugees in neighbouring countries in complete security and dignity and to guarantee the security of all Togolese, including political opponents. It also requested the Secretary-General to bring the resolution to the attention of the Togolese authorities and to request them to indicate the action taken in pursuance of it and to report to the Commission, at its fiftieth session, on the basis of any information which might be gathered on the situation of human rights in Togo, including information supplied by non-governmental organizations. This report has been drawn up in response to the requests made in the above-mentioned resolution.

2. By a note verbale dated 15 July 1993, the Secretary-General transmitted a copy of resolution 1993/75 to the Minister for Foreign Affairs and Cooperation of the Togolese Republic and expressed a desire to receive from the Government of Togo any information and any comments it wished to put forward in connection with the resolution. The Government of Togo replied to the Secretary-General's communication by a note verbale dated 2 December 1993.

3. The Secretary-General also received a letter from the President of the High Council of the Togolese Republic dated 3 November 1993. This letter requested him, among other things, to arrange for the active involvement of the United Nations in Togo through the sending of a mission to enquire into the human rights situation in the country. On that point, it may be noted that the existing machinery of the Commission on Human Rights and the Centre for Human Rights is available to the Togolese Government. In particular, the possibility of a visit by the Special Rapporteur on extrajudicial, summary or arbitrary executions or some other representative of the Commission could be envisaged. The Secretary-General, for his part, expressed full support for initiatives by regional and other organizations concerned to help the Government and political parties of Togo settle their differences peacefully. He is, moreover, continuing to use his good offices with regard to this particular matter.

4. Chapter I of this report reproduces the contents of the Togolese Government's note verbale. Chapter II reviews the action taken by special rapporteurs and working groups of the Commission on Human Rights and treaty mechanisms in respect of Togo. Chapter III contains information from the Togolese Commission on Human Rights. Finally, the last chapter summarizes information corroborated in many reports brought to the Secretary-General's attention by non-governmental organizations.

I. INFORMATION FROM THE GOVERNMENT OF TOGO

5. By a note verbale dated 2 December 1993, the Ministry of Foreign Affairs and Cooperation of the Togolese Republic transmitted information and observations from the Government of Togo relating to resolution 1993/75. The text of the note verbale is reproduced below:

"The Ministry of Foreign Affairs and Cooperation would like to thank the Secretary-General most cordially for the interest he is taking in the situation of human rights and fundamental freedoms in Togo and welcomes the opportunity thus given to the Togolese Government to state its position on the matter.

Social and political unrest has been in evidence in all parts of the world in recent years, reflecting a profound desire among peoples for broader freedom and more effective participation in running the affairs of the nation. This unrest has not spared Togo.

Thus, after embarking in 1987 on a policy of progressive democratization of its institutions and political life, Togo entered in 1991 upon a two-year period of instability and unrest, which, born of profound misunderstandings about the issues involved in democratization among those involved in the nation's political life, dealt a heavy blow to the democratic process, which all Togolese had wanted to be peaceful, and resulted in serious violations of human rights (political, physical and verbal violence, attacks on public and private property, etc.), together with incitements to tribal hatred, the settling of old scores in towns and villages, etc.

The various cases of human rights violations mentioned in Commission on Human Rights resolution 1993/75 and referred to in the above note are in fact simply the result of profound lack of comprehension and understanding among the different protagonists in the nation's political life.

This tense situation reached its climax in the months of January and March 1993.

At a political meeting organized by the opposition on 25 January 1993, in connection with the visit to Lomé of the French Minister of Cooperation and the German Secretary of State for Foreign Affairs, the security forces policing a demonstration were attacked by the opposition militia; the situation then suddenly degenerated, and in the general confusion that followed lives were lost and much damage was done to property.

Some days later, on 30 January 1993, soldiers of the Togolese army embarked on reprisals, in order, it would seem, to avenge colleagues who had been hurt or killed by civilians.

The acts of violence that took place on 25 and 30 January 1993, which were immediately condemned by the Head of State, led to a mass exodus of part of the capital's population into the interior or to neighbouring countries.

In addition, alarming rumours put about through from disinformation and carried by a pilot radio set up in Ghanaian territory contributed a great deal to this flight of Togolese abroad, which was strengthened by the decision of the Ghanaian authorities to put their troops on alert.

Another tragic event occurred on 25 March 1993, when, following a coup organized by the opposition, the camp of the Togolese Combined Regiment (RIT) was attacked and four officers and several soldiers of the Togolese army were killed.

Faced with this situation, which was a threat to national unity, the Government, anxious to do all it could to bring about the transition as quickly as possible, made every effort to find a solution to the political crisis into which Togo had been plunged and to end the state of paralysis caused by the unlimited general strike launched on 16 November 1992.

It was in that spirit that it set itself to combat violence and insecurity by deploying public security forces, in order to ensure the nationwide peace and order essential for the free circulation of persons and goods and for the proper conduct of social, economic and political activities before, during and after the elections.

Being gravely concerned at the extent of the social disturbances, which nearly plunged Togo into chaos, the Government was led to take a number of measures intended to break the vicious circle of violence, to guarantee the security of all citizens, including its political opponents, and to create conditions conducive to the return of Togolese refugees from neighbouring countries in complete security and dignity. These measures included:

1. The establishment of a special security force to restore peace and ensure the safety of persons and property throughout the national territory;

2. The organization of tours all over the country, essentially involving members of the Government, to put across the message of reconciliation and make the people generally aware of the country's political situation;

3. Repeated appeals by the Head of State, the Prime Minister and the Minister of National Defence to all Togolese in exile to return to the country, where their security is guaranteed;

4. A request to the countries of refuge to help Togo in its efforts to get its citizens to return. It will be noted in this connection that there was a very favourable response to the authorities' appeals and that all genuine refugees have by now returned home.

It is important to stress that in seeking ways and means of finding a solution to this crisis, the Togolese Government has benefited from the good offices of certain friendly States, including Burkina Faso, France and Germany, which have endeavoured to bring the different protagonists of political life together and reconcile them.

These negotiations were conducted successively at the Colmar meeting in February 1993 and three sessions at Ouagadougou called for by the agreements of 11 July 1993, a result of the common desire of different Togolese political tendencies to work together on a consensual basis in organizing the proposed elections. It thus proved possible to hold the presidential elections in August 1993, and the legislative ones are expected to be held in the near future.

The organization of these different elections and the final establishment of the institutions called for by the Constitution of the IVth Republic, adopted by referendum on 27 September 1992, will undoubtedly strengthen democracy in Togo.

In the light of all the foregoing, the Ministry of Foreign Affairs and Cooperation wishes to make it plain that the incidents that have marred the democratic process in Togo these last two years, often leading to serious violations of human rights, as noted in resolution 1993/75, cannot be interpreted as involving the responsibility of the Togolese authorities.

Quite the contrary, they are a direct result of the intolerance preached by certain political tendencies devoid of any sense of responsibility and are the result of the profound lack of comprehension and understanding that characterizes the Togolese political scene.

It is moreover essential to stress that the unfortunate events of 25 and 30 January were the work of isolated groups and were in no way aimed at ethnic, religious, political or socio-professional groups, as some people have tried to make it appear. Furthermore, all incidents and cases of human rights violations involving members of the forces of law and order have on each occasion been strongly condemned by the authorities, which have not hesitated to take appropriate measures to restore order and security. To try at all costs to attribute them exclusively and systematically to the authorities and/or the army would be a monumental error; such an approach is not likely to help anyone appreciate or grasp the extent and complexity of the political problems Togo has to face.

The Ministry of Foreign Affairs and Cooperation wishes to reaffirm the Togolese Government's traditional commitment to the imperative need to defend, protect and promote human rights. While the undeniable efforts made by Togo in that direction have, over the last two years, suffered the repercussions of the profound changes and tragic abuses arising from the process of democratization, such incidents cannot affect the Togolese Government's unshakeable determination to build a constitutional State in which fundamental human rights, public freedoms and the dignity of the human person are guaranteed and protected.

In other words, the need to restore peace and social unity cannot in any way cause it to lose sight of the commitments it has undertaken in the field of human rights.

In this particularly heavy task, which the Togolese Government is tackling with determination in an eminently difficult context, Togo needs the collaboration of all its sons together with a positive contribution and understanding from the international community."

Enclosures*:

One Audio cassette

Two documents entitled "violence by opposition militia against the Togolese armed forces and public security forces".

II. ACTION TAKEN BY SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS AND BY TREATY MECHANISMS IN RESPECT OF TOGO

A. Action taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions

6. The action taken by the Special Rapporteur on extrajudicial, summary or arbitrary executions in respect of Togo is described in detail in his report to the Commission (E/CN.4/1994/7, paras. 584 to 593).

7. During 1993, the Special Rapporteur sent three urgent appeals to the Government of Togo, by which he expressed concern for the life and physical integrity of several persons. The first appeal concerned staff of FOPADESC, a branch of the World Confederation of Labour, who were said to have received death threats and to have been attacked by armed men on 31 December 1992. The second related to a number of persons arrested following the attack of 25 March 1993 on the camp of the Togolese Combined Regiment (RIT), after 13 persons, including three minors, had allegedly been extrajudicially executed in the same context. The last appeal concerned two soldiers accused of having been involved in the attack on the RIT, and two persons arrested by the gendarmerie, allegedly because their children had distributed leaflets.

8. The Special Rapporteur also transmitted to the Government the case of at least 19 persons said to have died after being shut up in a small cell at the Blitta gendarmerie, either through suffocation or as a consequence of ill-treatment, and the case of two members of opposition parties shot at point-blank range by soldiers on the orders of a village chief.

9. Concerning the case of the FOPADESC staff, the Government replied that a number of shops, private companies, public or semi-public buildings, including those of the organization in question, had been attacked by unidentified

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* Available for consultation in the secretariat.

individuals during the disturbances. As regards the two soldiers accused of taking part in the attack on the RIT, the Government replied that a judicial inquiry had been opened in order to establish their responsibility and that their conditions of detention respected human dignity.

10. In his observations, the Special Rapporteur pointed out that the Government's reply concerning FOPADESC gave no indication as to the identity of the persons responsible for the attacks. He also noted that the Government had not given any reply regarding the grave allegations of extrajudicial executions of persons accused of taking part in the attack on the RIT or the death in custody of at least 19 prisoners at the Blitta gendarmerie.

11. The Special Rapporteur also noted with regret that Togolese human rights mechanisms such as the Ministry of Human Rights seemed to have only a limited impact on investigations and prosecutions concerning the grave allegations of violations of the right to life that continued to reach him, but that on the contrary, according to the information at his disposal, the alleged perpetrators of human rights violations continued to enjoy impunity. The Special Rapporteur urged the Government of Togo to adopt effective measures to investigate past human rights abuses and bring those responsible to justice and to prevent further violations of the right to life, in particular in view of the forthcoming electoral campaigns.

B. Action taken by the Special Rapporteur on the question of torture

12. Details of the action taken in respect of Togo by the Special Rapporteur on the question of torture are to be found in his report to the Commission (see E/CN.4/1994/31, paras. 533 to 539).

13. During 1993, the Special Rapporteur sent three urgent appeals to the Government of Togo. The first concerned 23 persons who, according to information received, had been arrested after an attack on the residence of the President of the Republic on 25 March 1993 and tortured while in detention.

14. The Government informed the Special Rapporteur that a judicial investigation was being conducted in order to establish the responsibility of the persons concerned in the attack on the camp of the Togolese Combined Regiment (RIT). Some of them had been released. Others had been arrested on theft charges and one had been charged with drug trafficking. One person was not known to the security services. This reply was transmitted to the source of the allegation, which confirmed that most of the civilians arrested had subsequently been released. The source observed, however, that the Togolese authorities had not replied to the allegations that those arrested had been subjected to torture or ill-treatment and had not opened or carried out any investigation into those allegations.

15. The Special Rapporteur sent an urgent appeal to the Government concerning the case of a group of about 40 persons arrested on 26 August 1993 in Agbandi and Diguine. These persons were allegedly beaten at the time of their arrest and then taken to the Blitta gendarmerie, where they were all locked in a cell designed to hold five prisoners. The next day, 15 of them were reportedly found dead, and four others were alleged to have died later. It was also

reported that about 20 of the detainees had been transferred to the Char prison, and fears were expressed that they might be subjected to torture or ill-treatment.

16. The last urgent appeal sent by the Special Rapporteur concerned a man arrested on 27 August 1993 at Blitta when he was trying to locate a member of his family arrested the previous day at Agbandi. He was allegedly being held incommunicado, and fears had been expressed for his physical integrity.

17. The Government replied that some people had been arrested at Agbandi on 26 August 1993 for having damaged electoral equipment. Some of them had been poisoned after eating food provided by visitors. The person arrested on 27 August had visited the prisoners and had been arrested as he was delivering food containing syringes to one detainee. According to toxicological analyses, the food contained highly poisonous products dangerous to human health. The man had never complained before the judge about ill-treatment and received regular visits from his wife. His lawyer, who had access to him, had not yet asked to see him.

18. The source of the allegation, without disputing the findings of the police laboratory, pointed out that no autopsies had been carried out on the bodies of those who had died and that no inquiry had been carried out to investigate the allegations of torture or to establish the cause of death. The Government's reply did not give any information concerning allegations that the detainees had died as a result of torture, ill-treatment or asphyxiation after 40 of them had been crammed into a small cell.

C. Treaty mechanisms

19. Togo is party to the following instruments: International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Optional Protocol to the International Covenant on Civil and Political Rights; International Convention on the Elimination of All Forms of Racial Discrimination; International Convention on the Suppression and Punishment of the Crime of Apartheid; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child. It must however be noted that Togo is behindhand in submitting its reports to the various committees set up by these conventions.

III. INFORMATION FROM THE TOGOLESE COMMISSION ON HUMAN RIGHTS

20. By a letter dated 13 May 1993, the Chairman of the Togolese Commission on Human Rights (the national institution responsible for the promotion and protection of human rights) sent the following information, inter alia, to the Secretary-General from his exile in Benin:

> "Following repeated abuses by the security forces and the Togolese army, and particularly after the massacres of 25 and 30 January organized by the soldiers in the city of Lomé, hundreds of thousands of Togolese took refuge in neighbouring countries, mainly Ghana and Benin.

"Since then, the refugees, living in difficult conditions, have been awaiting an improvement in the social climate following a resumption of the political dialogue, but the climate has instead deteriorated, because of the violence that has taken hold in army barracks, leading to the deaths of many soldiers and exile for several hundreds of others since the end of March.

"Even the National Commission on Human Rights, the national institution responsible for the promotion and protection of human rights, finds itself today practically unable to carry on its work on behalf of the freedoms of Togolese citizens.

"If nothing is done soon to find a just and equitable solution to the serious socio-political crisis that is paralysing Togo, we fear that the country may sink irrevocably into chaos.

"The National Commission on Human Rights believes that personalities capable of influencing the course of events so as to help find an overall solution to this crisis should be associated with the various moves being made in that direction.

"To give you a rough idea of the sufferings of the Togolese, it may be noted that since 5 October 1990 the former single party, supported by General Eyadema's army, has been responsible for more than 2,500 deaths."

21. It should be noted that the representatives of national institutions for the promotion and protection of human rights, meeting at Tunis from 13 to 17 December 1993 under the auspices of the United Nations Centre for Human Rights, having been informed by the representative of the Beninese Commission on Human Rights of the situation of Mr. Djovi, until then President of the Togolese Commission on Human Rights and still a refugee in Benin, adopted a resolution (see document E/CN.4/1994/45, para. 81), in which they expressed to Mr. Djovi their solidarity following the ordeals to which he had been subjected and their gratitude for the assistance he had given to his fellow citizens in exile and solemnly requested the Togolese authorities to take all necessary measures to enable Mr. Djovi to return to his country with the benefit of the necessary guarantees of security and freedom of expression.

IV. INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS

22. This chapter summarizes information corroborated in the many reports brought to the Secretary-General's attention by the following non-governmental organizations: Amnesty International, Association for the Support of Democracy in Togo, Collective of Independent Trade Unions, International Committee of Support for the Democratic Process in Togo, Justice and Peace Diocesan Commission, International Federation of Action of Christians for the Abolition of Torture (FIACAT), International Federation of Human Rights, Togolese Human Rights League, Burkina Movement for Human Rights and Rights of Peoples and World Organization against Torture.

A. General situation in Togo during 1993

23. Togo, which abandoned the single-party political system in 1991, has embarked on a process of political change, General Gnassingbe Eyadema remaining in office as President of the Republic, however, during the transitional period leading to presidential and legislative elections. This phase has been marked by great political instability characterized by a climate of insecurity and violence, with increasing tension between the President of the Republic, backed by the Togolese armed forces (FAT), and the opposition. Attacks and murderous assaults have been attributed both to agents connected with the authorities and to opposition groups.

24. The general strike which had paralysed the country since 16 November 1992 came to an end in June 1993. On 11 July 1993, opposition and government representatives signed the Ouagadougou agreements, under which elections, which until then had been constantly postponed, could start being held in August 1993. The agreements also specified that the FAT would not leave their barracks unless the country found itself facing an emergency. The presidential election, which was held on 25 August 1993, was boycotted by the great majority of the opposition. It was won, with 96.46 per cent of the votes, by General Eyadema, who was re-elected for a five-year term. The turnout was only 36.16 per cent. The members of the international monitoring committee were divided in their reactions; the German and United States representatives left Togo before the polls opened, protesting that the necessary conditions for a free and fair election had not been fulfilled, and one French observer left the delegation, but the other French and Burkina members continued to observe the procedure. The United Nations Resident Coordinator in Togo, assisted by two experts, monitored the elections on behalf of the United Nations. An agreement was subsequently reached that the legislative elections should be held at the beginning of 1994, this time with the participation of eight opposition parties. The legislative elections have been postponed to 6 and 20 February 1994 for the first and second ballots respectively.

B. Human rights violations attributed to the Togolese armed forces (FAT) during 1993

25. In the new constitution approved by referendum on 27 September 1992, the Head of State retains command of the Togolese armed forces (FAT). Some observers have pointed out that the President's control is likely to be strengthened by the fact that the army is mainly composed of men from his own ethnic group and from the region where he was born and that a number of members of his family hold important posts in it. According to some sources, the FAT have also incorporated armed civilians into their ranks.

26. The FAT have regularly intervened in the country's political life and have frequently been accused of committing attacks on opposition leaders and presumed sympathizers, particularly in the years 1991 and 1992. The victims of the human rights violations of which the FAT were accused were allegedly targeted because of their ethnic origins, their opposition activities or their political sympathies.

27. Some observers have concluded from the material available to them that the FAT have on various occasions committed human rights violations (such as extrajudicial executions, torture and arbitrary arrests), if not on orders, at least in the knowledge that they would not be liable to prosecution. It has also been reported that most of the violations committed by the FAT do not seem to have been stopped or punished or to have given rise to any official and independent inquiry. It has for example been reported that at the national conference, well before the elections, members of the armed forces and police were identified, individually in some cases, as having taken part in illegal arrests or having been behind acts of torture and extrajudicial executions, but that the presumed culprits have not been brought to justice.

28. During 1993, the following human rights violations were attributed to the FAT:

Violent suppression of peaceful demonstrations in January 1993

29. On 19 January 1993, during a popular march in support of the High Council of the Republic (HCR), which was holding a plenary meeting at the Hotel de la Paix (access to the Palais des Congrès being blocked by soldiers) in order to decide on the constitutionality of the appointment of the Prime Minister by the Head of State, members of the FAT are alleged to have fired indiscriminately at the crowd, wounding at least six people.

30. On 25 January 1993, during a peaceful demonstration attended by an estimated 300,000 people in the capital, Lomé, more than 19 persons (some sources put the number at around 100) are said to have been killed by the FAT and armed men in civilian clothes, who fired on the crowd indiscriminately. Witnesses said that army lorries later took away many bodies to an unknown destination. Other persons are alleged to have been killed or wounded during the next few days. The opposition had organized the demonstration to show its support for an initiative by the French and German Governments attempting to resolve the political stalemate between the Head of State, the transitional Government and the High Council of the Republic.

31. On 30 January 1993, as a reprisal for the death of a soldier and a gendarme apparently killed by civilians, members of the Presidential Guard went out onto the streets and are said to have fired indiscriminately at civilians and to have pillaged property until the next day without interference. They allegedly also went to the homes of various well-known figures and, not finding them in, took vengeance on other people. These reprisals continued for several days and left some 10 people dead. The bodies of several victims, including one person reported missing on 1 February, were found later. This punitive expedition was said to have been sparked off by a Togolese Television report showing pictures of soldiers dead or wounded.

32. These violent incidents caused more than 300,000 Togolese, including nearly half the population of Lomé, to go into exile, mainly in neighbouring Benin and Ghana. They reportedly include opposition leaders and activists, but also ordinary citizens anxious for their safety; 150,000 inhabitants of Lomé are also said to have sought refuge outside the capital. The number of Togolese refugees in Ghana and Benin was estimated by the United Nations High Commissioner for Refugees at 280,000 in June 1993 and January 1994.

33. The President of the Republic is said to have ordered the Minister of Defence to open an inquiry into the violence of 30 January, and the Procurator to have ordered autopsies on those killed on 25 and 30 January, but according to the reports received, the results have not been made public and no judicial inquiry has been opened.

Extrajudicial executions and illegal detentions following two attacks on the camp of the Togolese Combined Regiment (RIT)

34. On 25 March 1993, following a first attack on the camp of the Togolese Combined Regiment (RIT), where the President of the Republic has his residence, at least 20 persons, including both soldiers and civilians, are said to have been executed extrajudicially by the FAT. It was reported that this incident led to members of the armed forces taking the law into their own hands and that some of the victims had been targeted because of their ethnic origins or because they were suspected of belonging to the Democratic Soldiers' Association or of having been involved in the attack on the RIT. In the days that followed, a number of other soldiers were allegedly executed extrajudicially, either in the barracks, or at a shooting-range in the suburbs of Lomé. Several soldiers and civilians were arrested and large-scale searches were carried out. The civilians were released on 3 July, but the soldiers continued to be held incommunicado, illegally, at the gendarmerie or the RIT barracks in Lomé. None of them has apparently been brought before a court or any judicial authority, as required by Togolese law. The detainees have accordingly been unable to exercise their right to contest the legality of their detention.

35. A large number of suspects are said to have been arbitrarily arrested following a second attack on the RIT barracks on 5 January 1994. Of these, 36 were apparently executed extrajudicially on 6 and 8 January. Twelve soldiers who were suspected of having been involved in the attack on the RIT of 25 March 1993 and had been detained ever since are also said to have been executed on 6 January. The other persons arrested after the incident of 5 January 1994 are reported to be detained at the National Gendarmerie Camp, and fears have been expressed for their lives and physical integrity.

Arrests and deaths in detention following the presidential election

36. On 26 August 1993, on the day after the presidential election, 40 persons were arrested at Agbandi and taken to the Blitta gendarmerie. These arrests followed upon the previous day's wave of violence: local opposition supporters, who apparently discovered that the ballot boxes had been filled with false ballot papers in favour of the President of the Republic before the polls opened, sacked the polling booths in Agbandi and the surrounding area. The 40 detainees were allegedly ill-treated after their arrest and pushed into a cell intended for five prisoners. By the next day, 21 of them were dead. Some of them had suffocated.

Torture or inhuman or degrading treatment

37. Unlike the previous one, the new Togolese Constitution states that the practice of torture is a criminal act, whether the official committing it acts

on his own initiative or on the orders of a superior. However, the courts have never convicted anybody of torture.

38. Several cases of torture were reported during 1993, for example, following the attack on the RIT, or in trials based on confessions obtained under torture.

C. Freedom of expression and press freedom

39. The opposition private press is said to be harassed by the authorities. Its freedom of expression is seriously limited by the arrest (e.g. of the publisher of the Lettre de Tchaoudjo on 17 November 1993), prosecution and conviction of journalists and publishers sentenced to fines and terms of imprisonment for defamation of the Head of State and by a campaign against sellers and distributors of these newspapers. Bomb attacks on printing presses and editorial offices of some of these publications, such as the Tribune des Démocrates (April 1993) or the Imprimerie des Grandes Editions (May 1993), have also been reported.

40. In addition, it has been reported that since September 1992 the State media have been closely controlled by persons favourable to the Head of State and that since 2 February 1993 soldiers and gendarmes have been admitted to them for "training courses".

D. Reprisals against members of a human rights defence organization

41. It is reported that the members of the Executive Board of the Togolese Human Rights League (LTDH) and its President have received death threats. Most of them are said to have been obliged to go into exile. These threats are not limited to Togolese territory, since the President of the LTDH had been the victim of two bomb attacks in Paris and several attempts at abduction, together with another bomb attack in Ghana. During the night of 1 December 1993, his wife's house was allegedly attacked by some 50 members of the FAT, who searched it for arms. Fears have been expressed for the life and physical integrity of the wife of the President of the LTDH and other persons living in her house.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Human rights violations in Bougainville

Report of the Secretary-General

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	2
I. ACTIVITIES OF TREATY BODIES ESTABLISHED UNDER INTERNATIONAL INSTRUMENTS	4 - 6	2
A. Committee on the Elimination of Racial Discrimination	4 - 5	2
B. Committee on the Rights of the Child	6	2
II. MECHANISMS OF THE COMMISSION ON HUMAN RIGHTS	7 - 9	3
III. ADVISORY SERVICES AND TECHNICAL ASSISTANCE	10	3
Annex: Information provided by non-governmental sources . .		4

GE.94-10421 (E)

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/76, entitled "Human rights violations in Bougainville", in which, inter alia, it requested the Secretary-General to transmit to the Commission on Human Rights information made available to him on the situation in Bougainville by the Government of Papua New Guinea and other reliable sources for consideration at its fiftieth session.

2. By note verbale dated 1 July 1993, the Secretary-General communicated the aforementioned resolution to the Government of Papua New Guinea and requested the Government to provide him with any information and views it might wish to submit. This request was reiterated in a further note verbale addressed to the Government of Papua New Guinea on 17 November 1993. To date, no reply has been received from the Government.

3. The present report has been prepared in compliance with the request addressed to the Secretary-General in the above-mentioned resolution. It contains information on activities undertaken by United Nations human rights mechanisms and procedures with regard to the human rights situation in Bougainville. The annex contains a summary of information provided by non-governmental organizations.

I. ACTIVITES OF TREATY BODIES ESTABLISHED UNDER INTERNATIONAL INSTRUMENTS

A. Committee on the Elimination of Racial Discrimination

4. The Committee on the Elimination of Racial Discrimination considered the implementation of the Convention on the Elimination of Racial Discrimination in Papua New Guinea and, in particular, the situation in Bougainville, at its 1007th meeting, held on 17 August 1993 (see CERD/C/SR.1007 and A/48/18, paras. 567-573). Papua New Guinea has been a party to this Convention since 1982.

5. In its concluding observations, adopted at the 1010th meeting on 19 August 1993, the Committee expressed concern at reports of serious human rights violations in Bougainville, including summary executions and population transfers, as well as large-scale mining operations in Bougainville without due regard to the rights of the population or the adverse effects of environmental degradation. The Committee suggested, inter alia, that the Government of Papua New Guinea should cooperate with international fact-finding missions which were seeking to assist in the resolution of the conflict in Bougainville.

B. Committee on the Rights of the Child

6. Papua New Guinea ratified the Convention on the Rights of the Child on 1 March 1993. A report on the implementation of the Convention by the Government of Papua New Guinea is to be submitted to the Committee on the Rights of the Child in 1995.

II. MECHANISMS OF THE COMMISSION ON HUMAN RIGHTS

7. On 21 May 1993, the Special Rapporteur on extrajudicial, summary or arbitrary executions transmitted an urgent appeal to the Government of Papua New Guinea after being informed that Ken Savia, Mr. Toromura and Gabriel Tameung had been arrested by the security forces. Fears had been expressed that they might have been killed while in custody.

8. On 29 July 1993, the Special Rapporteur also transmitted to the Government of Papua New Guinea allegations he had received concerning large-scale human rights violations, including extrajudicial, summary or arbitrary executions, on the island of Bougainville. According to these reports, many suspected members of the Bougainville Revolutionary Army (BRA) had become victims of executions or disappearances at the hands of the security forces of Papua New Guinea. Several civilians were said to have been killed when the boats or trucks they were travelling in were shelled or strafed by the military. Others were allegedly killed in Government-controlled "care centres", established by the authorities to provide shelter to Bougainvilleans fleeing the BRA. It had further been reported that the BRA was also responsible for serious abuses, including killings of alleged opponents to the secessionist movement. The Special Rapporteur was also informed that no efforts had been made by the Government of Papua New Guinea to stop human rights violations on Bougainville. On the contrary, the authorities were said to have persistently denied the occurrence of such violations on the island.

9. At the time of the preparation of the present report, the Government of Papua New Guinea had not provided any replies to the Special Rapporteur's requests for information contained in the aforementioned communications.

III. ADVISORY SERVICES AND TECHNICAL ASSISTANCE

10. Cooperation was established in 1993 between the Government of Papua New Guinea and the Advisory Services and Technical Assistance Branch of the United Nations Centre for Humn Rights. Information on this cooperation, which focuses on the strengthening of national mechanisms for the promotion and protection of human rights in Papua New Guinea, may be found in the Secretary-General's report to the Commission on Human Rights on advisory services and technical assistance in the field of human rights (E/CN.4/1994/78).

Annex I

INFORMATION ON THE HUMAN RIGHTS SITUATION IN BOUGAINVILLE PROVIDED BY NON-GOVERNMENTAL SOURCES

A. Amnesty International

1. The Secretary-General received information from Amnesty International. In November 1993, this organization published a detailed report on human rights violations which occurred on the island of Bougainville between 1991 and 1993 against the background of the armed conflict between the Papua New Guinea Defence Forces (PNGDF) and the Bougainville Revolutionary Army (BRA), which had erupted in late 1989. The occurrence of such violations, which included extrajudicial executions, torture, rape, beatings and harassment of civilians, reportedly increased during periods of intensified activities of government troops in different parts of Bougainville and the neighbouring island of Buka.

2. The PNGDF were said to have targeted civilians whom they suspected of being BRA members or sympathizers. Throughout the armed conflict, human rights violations were also reported to have taken place in "care centres" established by the Government of Papua New Guinea. An estimated 20,000 to 40,000 people were relocated in such centres. While in some areas "care centres" were said to serve to protect Bougainvilleans from acts of violence by BRA members, in most cases their residents were reportedly forcibly relocated by the Government, often after their villages had been burned or otherwise destroyed. In the centres, the residents were allegedly subjected to constant surveillance, intimidation and persecution by security forces. Several cases of rape and other forms of sexual abuse in "care centres" have also been reported. Furthermore, from early 1992, boats were reportedly shot at by the security forces from the air or from military patrol boats, which resulted in the killing of many civilians.

3. Amnesty International also reported abuses by members of the BRA throughout the armed conflict. Civilians accused of being "spies" for the PNGDF or having betrayed the secessionist movement by negotiating with representatives of the central Government were said to have become victims of deliberate killings, torture, rape and other forms of sexual abuse as well as hostage-taking.

4. Since the beginning of the armed conflict, constitutional, judicial and other institutional safeguards for the protection of human rights in Papua New Guinea were reported to have been largely suspended. By September 1993, very few members of the security forces were said to have been subjected to disciplinary proceedings and none were known to have been prosecuted for human rights violations committed after the PNGDF troops had landed in Bougainville for the second time in April 1991. Government officials reportedly stated in mid-1993 that investigations could not be carried out until the situation had normalized. A new Internal Security Act,

announced in mid-1993 and made public in the Government Gazette in August 1993, was reported to permit further suspension of constitutional safeguards. It is not clear as of when this law will be in effect.

5. Concerns were also expressed at the restrictions on access to the island of Bougainville imposed by the Government which impedes human rights monitoring and left the security forces virtual freedom of action. The non-governmental organization Médecins sans Frontières saw itself forced to withdraw from the area in November 1993, after their delegations had been subjected to serious limitations of access to Bougainville. Furthermore, an economic and communications blockade in effect since the first half of 1991 caused hardship for the population. The Government reportedly claimed that 90 per cent of the services had been restored on the island. However, in practice deliveries were said to be sporadic and reach only selected parts of the island.

6. In addition, Amnesty International reported on evidence that two of four helicopters supplied to Papua New Guinea by Australia were used by the PNGDF as gunships and employed in attacks against civilians. Concern was expressed that a fifth helicopter was handed over in 1993 despite the fact that investigations into these allegations had not been concluded.

7. The Secretary-General was informed that, while initially rejecting and condemning this report, the Minister of Defence of Papua New Guinea reportedly stated that his Government would fully address the Amnesty International report issued in November 1993. However, it was reported that the Deputy Prime Minister of Papua New Guinea had defended the military's role on Bougainville, rejecting as unnecessary Amnesty's call for the Government to allow humanitarian groups onto the island.

B. Médecins sans Frontières

8. In an open letter of 11 November 1993 explaining the reasons for their withdrawal from the area, Médecins sans Frontières stated that an estimated 50,000 persons were still present in zones of the island which were not controlled by the PNGDF. The organization asserted that the blockade of the island imposed by the Government of Papua New Guinea had resulted in a lack of access of even the most basic medical services to these areas. The organization maintained that the lack of preventive and curative care over the past three or four years has caused elevated death rates among the most vulnerable groups in the population such as children and pregnant women.

C. Other non-governmental sources

9. The Secretary-General also received information from other non-governmental sources. A report by Rosemarie Gillespie, an Australian barrister who, in late 1992 and early 1993, spent five months on the island of Bougainville gathering information, contains allegations of large-scale human rights violations, including shooting and killing of civilians, torture and sexual abuse, theft and killing of domestic animals as well as destruction of houses and food gardens of the civilian population, by members of the PNGDF in

various parts of the island. The report contains a number of witnesses' accounts giving testimony of attacks on civilians in which the PNGDF used patrol boats and helicopters equipped with machine guns as well as raids by the security forces on bush camps resulting in alleged extrajudicial executions of civilians who had been hiding there. In addition, 5,000 people, among them many children, were reported to have died as a result of the blockade imposed on the island of Bougainville by the Government of Papua New Guinea, due to lack of medicines and other essential supplies.